



Maryland Department of Health and Mental Hygiene
201 W. Preston Street • Baltimore, Maryland 21201

Robert L. Ehrlich, Jr., Governor – Michael S. Steele, Lt. Governor – Nelson J. Sabatini, Secretary

MARYLAND MEDICAL ASSISTANCE PROGRAM
Waiver for Older Adults Transmittal No.9
April 6, 2004

To: Waiver for Older Adults Providers
Maryland Department of Aging
Area Agencies on Aging

From: *Susan J. Tucker*
Susan J. Tucker, Executive Director
Office of Health Services

Please ensure that appropriate staff members in your organization are informed of the contents of this transmittal.

Re: Waiver for Older Adults Proposed Regulations COMAR 10.09.54

Action: Proposed Regulations	Proposed Effective Date: July 1, 2004
Written Comments To: Michele Phinney 201 W. Preston Street, Room 521 Baltimore, MD 21201 (410) 767-6499	Program Contact Person: Kristin Jones, Waiver Coordinator Long Term Care and Waiver Services (410) 767-5220
Comment Period Expires:	May 3, 2004

The Maryland Medical Assistance Program proposes to amend Regulations .03 -.06, .10, .15 -.18, .22 -.24, .29, .31 - .33 and to repeal Regulations .14 and .30 under COMAR 10.09.54 Home/Community Based Services Waiver for Older Adults. The amendments, as published in the Maryland Register, are attached.

The purpose of the proposed regulations is to:

- I Modify qualifications for certain providers of waiver services, as described below.



General Conditions for Participation

- Provider may not have had a suspended or revoked license or certificate within the past 24 months
- Provider may not have been subjected to disciplinary action within the past 24 months
- Provider must maintain written documentation of waiver services for a period of six years

Personal Care

- Provider may request that the Department waive certain provider qualifications regarding criminal history under certain conditions
- Provider is required to complete certification for CPR and first aid (This requirement will be effective for new providers on July 1, 2004 and for providers already enrolled in the program on January 1, 2005.)
- Personal care provider agencies must maintain criminal background report, first aid, CPR and re-certifications for personal care aides for review by the Department
- Qualifications for personal care aides administering medications are clarified

Assisted Living

- New rules on bed reservations policy
- New rules on designated unit policy
- New rules on providing basic personal care and hygiene supplies for residents

Environmental Modifications/Adaptations

- Area Agency on Aging (AAA) must obtain bids from licensed contractors if service is estimated to cost over \$500
- Service must be preauthorized by Maryland Department of Aging (MDoA) or the AAAs
- Lifetime cap has increased to \$10,000 with an annual cap of \$5,000

- II. Modify certain administrative responsibilities for MDoA or the AAA's, including:
 - Initial development of the waiver participant's plan of care
 - Revisions to the plan of care
 - Preauthorization of certain waiver services
- III. Reduce the increase in provider reimbursement rates for fiscal year 2005 by ½ percent.
- IV. Repeal extended home health services due to availability of these services under the Medicaid State Plan benefit package.

Any questions regarding the content of this transmittal should be directed to Older Adults Waiver Coordinator, at 410-767-5220.

attachment

- E. The provider may not bill the Department for
 - (1) Completion of forms and reports;
 - (2) Broken or missed appointments;
 - (3) Professional services rendered by mail or telephone; and
 - (4) Services provided at no charge to the general public.
- [G.] F. (text unchanged)
- G. The provider shall refund to the Program payment for hearing aids, supplies, or both, that have been returned to the manufacturer.
- H. The provider shall give the Program the full advantage of any and all manufacturer's warranty and trade-ins offered on hearing aids, equipment, or both.
- I. The Program shall reimburse for covered services at the lower of:
 - (1) The provider's usual and customary charge to the general public; or
 - (2) The Program's fee schedule
- J. The Program shall reimburse the provider the acquisition cost of the following services:
 - (1) Hearing aids, accessories, and supplies, and
 - (2) External cochlear implant accessories and supplies.
- K. The Program reserves the right to return to the provider, before payment, all invoices not properly signed, completed, and accompanied by properly completed forms required by the Department.
- L. Unless preauthorization has been granted by the Program, the Program is not responsible for any reimbursement to a provider for any service provided which requires preauthorization.
- M. The Program may not make direct payment to recipients.
- N. Billing time limitations for claims submitted pursuant to this chapter are set forth in COMAR 10.09.36.

NELSON J. SABATINI
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS
10.09.54 Home/Community Based Services
Waiver for Older Adults

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-132, Annotated Code of Maryland

Notice of Proposed Action
[04-082-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .03 — .06, .10, .15 — .18, .22 — .24, .29, .31 — .33 and repeal Regulations .14 and .30 under COMAR 10.09.54 Home/Community Based Services Waiver for Older Adults.

Statement of Purpose

The purpose of this action is to update outdated provisions of the existing regulations, limit the growth in reimbursement rates for fiscal year 2005, revise qualifications for providing certain waiver services, and make several technical changes to the Waiver for Older Adults. Consistent with the proposed budget for fiscal year 2005, the increase in reimbursement rates for waiver providers will be reduced by 1/2 percent (0.5 percent) saving approximately \$137,500 in State funds. Extended home health services are repealed because federal limitations have been revised so

that all appropriate services can be covered through the State Plan Home Health benefit.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. These amendments will reduce the increase in reimbursement rates established for fiscal year 2005 by 1/2 percent (0.5 percent), saving \$275,000 total funds (\$137,500 in State general funds). Other reimbursement changes may have a nonquantifiable fiscal impact.

II. Types of Economic Impact.		Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E-)			\$275,000
B. On other State agencies:	NONE			
C. On local governments:	NONE			
		Benefit (+)	Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)			\$275,000
E. On other industries or trade groups:	NONE			
F. Direct and indirect effects on public:	NONE			

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. Reimbursement rates for providers under the Waiver for Older Adults increase annually according to a methodology specified in regulation. For fiscal years 2003 and 2004, rates increased by 2.2 percent and 2.5 percent, respectively. For fiscal year 2005, the percent increase calculated from the current methodology will be reduced by 1/2 percent (0.5 percent). With projected expenditures for waiver services affected by this provision of approximately \$55,000,000, tempering the rate increase by 1/2 percent (0.5 percent) will save \$275,000, 50 percent of which will be State general funds.

D. Increases in payments to providers under the Waiver for Older Adults will be tempered by \$275,000, as indicated in A, above.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows.

The largest provider groups under the Waiver for Older Adults are assisted living facilities and personal care providers. Most such providers operate as small businesses or independent contractors.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Regulations Coordinator, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 521, Baltimore, Maryland 21201, or fax to (410) 333-7687, or email to regs@dhhm.state.md.us, or call (410) 767-6499 or 1-877-4MD-DHMH, extension 6499. These comments must be received by May 3, 2004.

.03 Participant Eligibility.

A. (text unchanged)

B. **Technical Eligibility.** An individual shall be determined by the Maryland Department of Aging or its designee as meeting the technical eligibility criteria for waiver services if the individual:

- (1) — (2) (text unchanged)

(3) Is not enrolled simultaneously in both the Waiver for Older Adults and:

(a) (text unchanged)

(b) Program of All-Inclusive Care for the Elderly (PACE), or

[(c) Rare and Expensive Case Management (REM) under COMAR 10.09.69, or]

[(d)] (c) (text unchanged)

(4) Has a plan of care that:

(a) — (b) (text unchanged)

(c) Is initially developed and signed by an appropriately constituted multidisciplinary team, and approved by the Maryland Department of Aging or its designee;

(d) Is revised as necessary by the participant's case manager or the multidisciplinary team, with the revisions approved by the Maryland Department of Aging or its designee;

(e) — (f) (text unchanged)

(g) Includes:

[(i) Pertinent diagnoses,

(ii) Prescribed medications and treatments,

(iii) Functional, cognitive, behavioral, and health status.]

[(iv)] (i) — [(vi)] (iii) (text unchanged)

[(vii)] (iv) Dated signatures of the participant or authorized representative, case manager, each of the other individuals participating on the multidisciplinary team, and a representative of the Maryland Department of Aging or its designee,

[(viii)] (v) — [(ix)] (vi) (text unchanged)

(5) Is determined by the Maryland Department of Aging or its designee as:

(a) — (c) (text unchanged)

(6) — (8) (text unchanged)

C. (text unchanged)

D. Waiver Eligibility Based on the criteria established in §§A — C of this regulation:

(1) (text unchanged)

(2) The Department and the Maryland Department of Aging or its designee shall reevaluate a participant's eligibility for waiver services every 12 months, or more frequently due to a significant change in the participant's condition or needs; and

(3) The participant's eligibility shall be terminated as of the effective date established for ineligibility, when the Department or the Maryland Department of Aging or its designee confirms that a participant no longer qualifies for waiver services in accordance with the requirements at §§A — C of this regulation.

E. Annual Cap and Waiting List for Waiver Participation.

(1) For each State fiscal year beginning on July 1, the Department shall establish a cap, approved by the federal [Health Care Financing Administration (HCFA)] Centers for Medicare and Medicaid Services (CMS), for the number of unduplicated individuals who may receive the services covered under this chapter, based on available State and federal funding.

(2) — (3) (text unchanged)

(4) Once the annual cap on waiver participation is reached:

(a) (text unchanged)

(b) No additional qualified individual may be enrolled in the waiver during that State fiscal year, unless:

(i) The Department and [HCFA] CMS authorize increasing the waiver cap, and

(ii) (text unchanged)

.04 Conditions for Participation — General.

General requirements for participation in the Maryland Medical Assistance program are that a provider shall:

A. — E. (text unchanged)

F. Meet, and assure that its principals meet, the following conditions:

(1) — (2) (text unchanged)

(3) Have not experienced a termination of a reimbursement agreement with or been barred from work or participation by a public or private agency due to failure to meet contractual obligations or due to fraudulent billing practices within the past 24 months, [and]

(4) Have not had a license or certificate *suspended or revoked* as a health care facility, health care provider, or provider of [personal] direct care services [revoked] within the past 24 months[;], and

(5) *Have not been subject to disciplinary action including actions to the provider's licensing board within the past 24 months;*

G. Maintain [detailed, written documentation of services rendered to participants] and have available written documentation of waiver services, including dates and hours of services provided, for a period of 6 years, in a manner approved by the Department;

H. — J. (text unchanged)

.05 Specific Conditions for Participation — Assisted Living, Environmental Assessments, Behavior Consultation, and Senior Center Plus.

A. Assisted Living. Specific requirements for participation in the Program as an assisted living services provider are that a provider shall:

(1) — (6) (text unchanged)

(7) If environmental modifications included in a participant's plan of care are estimated to cost over \$500, obtain at least two bids or prices from licensed contractors and accept the lowest bid that is preauthorized by the Maryland Department of Aging or its designee and meets the requirements in terms of the nature of the work and reasonable quality standards; and

(8) (text unchanged)

B. Bed Reservations. If bed reservations are offered to participants who are absent from an assisted living facility due to hospitalization, the assisted living providers shall:

(1) Be provided to all residents at admission;

(2) Be fairly and consistently applied to all residents;

(3) Specify that the bed reservation service is not a Medicaid covered service;

(4) Clearly state that it is the resident's decision whether to reserve the bed; and

(5) Specify that the participant's payments for bed reservation days may not exceed the full Medicaid waiver per diem which is determined by prorating the applicable monthly Level II or Level III Medicaid assisted living facility rate.

C. Designated Units. An assisted living provider may limit waiver participation to a designated unit or units only if approved by Maryland Department of Aging and the facility resident agreement contains the following provisions:

(1) The facility's participation in the Program is limited to one or more designated units and, in order to access Medicaid waiver benefits, the resident shall reside in a designated unit;

(2) A resident of a designated unit has a right to apply for the waiver at any time and access waiver benefits without restrictions by the provider when the resident is found eligible by the Program; and

(3) *A resident not in a designated unit who is otherwise eligible or seeking eligibility for the waiver shall be given first consideration and, with all other factors equal, first priority in admission to a vacant bed in a designated unit.*

[B.] D. — [D.] F. (text unchanged)

.06 Specific Conditions for Participation — Personal Care.

A. (text unchanged)

B. To qualify as a personal care aide for a specific participant, providing the services covered under Regulation .22E of this chapter, an individual:

(1) — (5) (text unchanged)

(6) [May] *Unless meeting the conditions of §C of this regulation, may not have been convicted of, received a probation before judgment for, or entered a plea of nolo contendere to a felony or any crime involving moral turpitude or theft, or have any other criminal history that indicates behavior which is potentially harmful to participants;*

(7) — (9) (text unchanged)

(10) [Shall be certified as a nursing assistant in accordance with COMAR 10.39.01 and as a certified medicine aide in accordance with COMAR 10.39.03, before the aide performs any delegated nursing functions specified in Regulation .22E(3) of this chapter, such as medication administration; and

(11) Shall be supervised by a personal care nurse monitor in accordance with the requirements of §C(6) and (7) of this regulation[.];

(11) *Shall be currently certified by an organization recognized by the Maryland Board of Nursing in the following areas:*

- (a) *Cardiopulmonary resuscitation; and*
- (b) *Basic first aid; and*

(12) *Before performing any delegated nursing functions specified in Regulation .22E(3) of this chapter, shall be:*

(a) *Certified as a nursing assistant in accordance with COMAR 10.39.01; and*

(b) *One of the following:*

(i) *Certified as a medicine aide in accordance with COMAR 10.39.03; or*

(ii) *Registered with the Maryland Board of Nursing as a medication assistant in accordance with COMAR 10.39.01.*

C. *If requested by the provider applicant, the Department may waive the provisions of §B(6) of this regulation, if the applicant demonstrates that:*

(1) *The conviction, probation before judgment, or plea of nolo contendere for a felony or any crime involving moral turpitude or theft was entered more than 10 years before the date of the provider application; and*

(2) *The criminal history does not indicate behavior that is potentially harmful to participants.*

[C.] D. A personal care provider agency shall:

(1) — (2) (text unchanged)

(3) *Employ or contract with licensed registered nurses as personal care nurse monitors, in sufficient numbers to assure that a nurse is available to provide the necessary type and frequency of personal care nurse monitor services required for each participant who receives these services from or under supervision of the personal care provider agency;*

(4) (text unchanged)

(5) [For each personal care aide employed by or under contract with the personal care provider agency, provide supervision of either an agency-employed or self-employed personal care aide by conducting] *Ensure that the nurse*

monitor conducts a supervisory visit of the personal care aide in the participant's residence at least every month to [ensure] review quality of care by observing and monitoring the aide's performance and interaction with the participant;

(6) *For each participant receiving personal care nurse monitor services from the personal care provider agency:*

(a) (text unchanged)

(b) *Ensure that a [prospective] personal care aide meets the requirements in §B of this regulation to provide the specific personal care services ordered for the participant;*

(c) *Maintain copies of each criminal background report, cardiopulmonary resuscitation, first aid certification, and recertification of personal care aides for review by Maryland Department of Aging or its designee;*

[(c)] (d) (text unchanged)

(7) (text unchanged)

.10 Specific Conditions for Participation — Family or Consumer Training.

Specific requirements for participation in the Program as a provider of family or consumer training under Regulation .26 of this chapter are that a provider shall:

A. Be [an agency or facility which is]:

(1) *Enrolled as a Program provider of:*

(a) *Assisted living, personal care, environmental assessments, or respite care services under this chapter,*

(b) — (c) (text unchanged)

(2) — (3) (text unchanged)

B. (text unchanged)

.15 Covered Services — General.

The Program shall reimburse for the services specified in Regulations .16 — .30 of this chapter when these services have been documented, pursuant to the requirements of this chapter, as:

A. (text unchanged)

B. *Preauthorized in the participant's plan of care, which is approved by the Maryland Department of Aging or its designee and subject to the Department's review and approval;*

C. — D. (text unchanged)

.16 Covered Services — Assisted Living Services.

A. (text unchanged)

B. *Assisted living services shall include the provision of:*

(1) — (2) (text unchanged)

(3) *Basic personal hygiene supplies, including but not limited to:*

(a) *Soap;*

(b) *Bathroom tissue;*

(c) *Paper towels;*

(d) *Toothpaste;*

(e) *Toothbrush; and*

(f) *Shampoo;*

[(3)] (4) — [(10)] (11) (text unchanged)

.17 Covered Services — Assistive Equipment.

A. — B. (text unchanged)

C. *Assistive equipment includes medical and nonmedical devices and appliances which:*

(1) (text unchanged)

(2) *Are preauthorized by the Maryland Department of Aging or its designee;*

(3) — (6) (text unchanged)

D. — E. (text unchanged)

.18 Covered Services — Environmental Modifications.

A. — B. (text unchanged)

C. Environmental modifications include participant-related physical adaptations to the assisted living facility which are:

(1) (text unchanged)

(2) Preauthorized by the Maryland Department of Aging or its designee;

(3) — (5) (text unchanged)

D. — E. (text unchanged)

.22 Covered Services — Personal Care.

A. — D. (text unchanged)

E. Personal Care Aide Services. One or more of the following services, as specified in the participant's specific plan for personal care developed by a personal care nurse monitor and rendered by a qualified personal care aide under the supervision of a personal care nurse monitor shall be covered:

(1) — (2) (text unchanged)

(3) Delegated nursing functions, such as the aide's assistance with the participant's administration of medications or the aide's administration of medications or other remedies, when ordered by a physician, if the assistance is:

(a) (text unchanged)

(b) Provided by a personal care aide who is:

(i) Certified as a nursing assistant in accordance with COMAR 10.39.01 [and medicine aide in accordance with COMAR 10.39.03, and];

(ii) Certified as a medicine aide in accordance with COMAR 10.39.03 or registered with the Maryland Board of Nursing as a medication assistant in accordance with COMAR 10.39.01; and

[(ii)] (iii) (text unchanged)

(c) (text unchanged)

F. — G. (text unchanged)

.23 Covered Services — Respite Care.

A. (text unchanged)

B. Respite care services shall:

(1) (text unchanged)

(2) Be furnished on a short-term basis because of the absence or need for relief of an [unpaid family member or other unpaid] individual normally providing the care;

(3) Provide a period of rest and renewal [for an unpaid family member or other unpaid caregiver], which contributes to maintaining the participant at home in the community;

(4) — (9) (text unchanged)

.24 Covered Services — Environmental Accessibility Adaptations.

A. (text unchanged)

B. Environmental accessibility adaptations shall include participant-related physical adaptations to the participant's home or place of residence, not including a licensed assisted living facility, which are:

(1) (text unchanged)

(2) Preauthorized by the Maryland Department of Aging or its designee;

(3) — (6) (text unchanged)

C. — E. (text unchanged)

.29 Covered Services — Assistive Devices.

A. — B. (text unchanged)

C. Assistive devices shall only be covered under this regulation if the item is:

(1) — (3) (text unchanged)

(4) Preauthorized by the Maryland Department of Aging or its designee in the participant's plan of care as:

(a) — (b) (text unchanged)

.31 Conditions for Reimbursement.

The Department shall reimburse for services under this chapter when the services are:

A. — B. (text unchanged)

C. Preauthorized by the Maryland Department of Aging or its designee;

D. — F. (text unchanged)

.32 Limitations.

A. — B. (text unchanged)

C. Reimbursement by the Program for environmental modifications covered under Regulation .18 of this chapter and environmental accessibility adaptations covered under Regulation .24 of this chapter:

(1) Is limited to [\$3,000] \$5,000 in any 12-month period and a lifetime limit of \$10,000 per participant [over a lifetime], with exceptions allowed at the Department's discretion in unusual circumstances; and

(2) If anticipated to cost over \$500, shall be preauthorized by the Maryland Department of Aging or its designee based on at least two bids or prices submitted by prospective providers.

D. — H. (text unchanged)

.33 Payment Procedures.

A. — B. (text unchanged)

C. Payments.

(1) — (3) (text unchanged)

(3-1) For the purpose of establishing reimbursement rates for the period July 1, 2004 through June 30, 2005, the rate of increase calculated under §C(3) of this regulation shall be reduced by one-half of a percentage point (0.5 percent).

(4) — (5) (text unchanged)

(6) Assistive Equipment. The assisted living services provider shall:

(a) (text unchanged)

(b) Bill the Program the actual purchase price for each item of assistive equipment, as preauthorized by the plan of care and the Maryland Department of Aging or its designee with the cost divided equally among invoices submitted for participants on whose behalf the item was purchased; and

(c) Submit to the Maryland Department of Aging or its designee documentation from the seller of the assistive equipment as to the actual purchase price.

(7) (text unchanged)

(8) Behavior Consultation Services. A qualified provider shall bill the Program an all-inclusive rate [of \$35] not to exceed \$55 for each hour of a home visit by an individual qualified to render services.

(9) (text unchanged)

(10) Personal Care. A qualified provider shall bill the Program a rate for each hour of covered services [as follows] not to exceed:

(a) (text unchanged)

(b) \$11.75 per hour for personal care aide services which include delegated nursing functions rendered by an appropriately certified self-employed aide [, including medication administration or assistance with administration of medication] under the supervision of a registered nurse;

(c) (text unchanged)

(d) \$15 per hour for personal care aide services, which include delegated nursing functions, rendered by an appropriately certified aide employed by a personal care provider agency, [including medication administration or assistance with administration of medication] under the supervision of a registered nurse;

(e) (text unchanged)

(11) Respite Care. A qualified provider shall bill the Program a rate for each hour of covered services [as follows] not to exceed:

(a) — (d) (text unchanged)

(12) Environmental Accessibility Adaptations. A qualified provider shall bill the Program the amount approved by the Maryland Department of Aging or its designee for the service provided, including the cost as well as installation, maintenance, and repair if appropriate.

(13) Personal Emergency Response Systems. A qualified provider shall bill the Program the amount approved by the Maryland Department of Aging or its designee for the following:

(a) — (c) (text unchanged)

(14) Family or Consumer Training. A qualified provider shall bill the Program an all-inclusive rate [of] not to exceed \$55 for each hour of covered services.

(15) Home-Delivered Meals. A qualified provider shall bill the Program an all-inclusive rate [of] not to exceed \$5 for each delivered meal.

(16) Dietitian and Nutritionist Services. A qualified provider shall bill the Program a rate [of] not to exceed \$55 for each hour of covered services.

(17) Assistive Devices. A qualified provider shall bill the Program the actual, reasonable purchase price preauthorized by the Maryland Department of Aging or its designee, not to exceed \$100 per item].

(18) Extended Home Health Services. A qualified provider shall bill the Program the rate established by the Program, based on the reimbursement methodology specified for the State Plan home health services in COMAR 10.09.04.07.]

NELSON J. SABATINI
Secretary of Health and Mental Hygiene

Subtitle 20 KIDNEY DISEASE PROGRAM

10.20.01 General Regulations

Authority: Health-General Article, §§13-301 — 13-315 and 16-204
Annotated Code of Maryland

Notice of Proposed Action

104-084-E7

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01 and .07 under COMAR 10.20.01 General Regulations.

Statement of Purpose

The purpose of this action is to discontinue payment of the Medicaid copay for prescription drugs for Kidney Disease Program (KDP) beneficiaries who are eligible for both KDP and Medicaid benefits.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. For a 12-month period, the Department of Health and Mental Hygiene will reduce expenditures an estimated \$50,000 (general funds) for Kidney Disease Program services.

II. Types of Economic Impact.

	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency: Kidney Disease Program	(E-)	\$50,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public: Kidney Disease Program beneficiaries	(-)	\$50,000

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. and F. For a 12-month period it is estimated that the Kidney Disease Program will pay \$50,000 (GF) less to Kidney Disease Program pharmacy providers for prescription copays for Medicaid recipients.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Regulations Coordinator, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 521, Baltimore, Maryland 21201, or fax to (410) 333-7687, or email to regs@dnhm.state.md.us, or call (410) 767-6499 or 1-877-4MD-DHMH, extension 6499. These comments must be received by May 3, 2004.

.01 Definitions.

A. (text unchanged)

B. Terms Defined:

(1) — (10) (text unchanged)

(10-1) "Maryland Pharmacy Discount Program (MPDP)" has the meaning stated in COMAR 10.09.60.02.

(11) — (22) (text unchanged)

.07 Provider Reimbursement.

A. — F. (text unchanged)

G. The Program may not reimburse for Medical Assistance [or MPAP] covered services if the recipient is a Medical Assistance for MPAP beneficiary recipient.

H. Exception to §G of this Regulation. The Program shall pay the [Medical Assistance or] MPAP or pharmacy copay for certified Program recipients for as long as the Program continues to pay the pharmacy copay for recipients with private health insurance.

I. — R. (text unchanged)

NELSON J. SABATINI
Secretary of Health and Mental Hygiene